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DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.			ZURITA, JAMES H	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/884,868
Filing Date: June 19, 2001
Appellant(s): LOURIE, RONALD

MAILED

JUN 08 2007

GROUP 3600

Emily Harris
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7 February 2007 appealing from the
Office action mailed 27 February 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

Art Unit: 3625.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6473500

RISAFI ET AL.

10-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims.

Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Risafi et al. (US 6,473,500). As previously noted,

a card is a flat usually small and rectangular piece of material, as paper, paperboard or plastic, usually bearing information.¹ Claim 1 contains the terms "anonymous" and "anonymously", which, by themselves, provide no patentable distinction to the card or to the method of using said card, or to issuing the card anonymously to a consumer.

The Examiner relies on Appellant's text to interpret ***anonymous[-ly]***. Prior art will be interpreted to disclose

- ... ***anonymous*** method of transaction...
- ... ***issuing*** said card to a consumer ***anonymously*** in exchange for payment by said consumer of said predetermined denominational value associated with said card...

where prior art discloses purchasing a card by providing payment in cash, or where prior art discloses prepaid card(s) where verification of a purchaser's identify is

¹ Definition of ***card***, MERRIAM WEBSTERS Collegiate Dictionary.

not required, or where an individual purchases a prepaid card at a card dispensing device.

As per claim 1, Risafi discloses limitations of Appellant's anonymous method of transaction, comprising:

providing a card of predetermined denominational value having an indicia of identification associated with a card and said value (e.g., at least Col. 2, lines 7-39);

providing an electronic means for transmitting information (as in Col. 12, lines 20-51);

issuing a card to a consumer anonymously in exchange for payment by a consumer of a predetermined denominational value associated with a card (e.g., Col. 1, line 54-Col. 2, line 8; see also references to card dispensing devices, Col. 6, lines 38-58; see also references to purchasing cards via cash payments);

presenting a card to a merchant as transactional payment to a merchant for a transaction of goods or services, wherein said transactional payment by a consumer to a merchant is less than or equal to a predetermined denominational value associated with a card (e.g., remaining balance, at least Col. 2, lines 7-38);

verifying a card by transmitting with said electronic means indicia of identification and the amount of said transactional payment by a consumer to a merchant, from a merchant to a card issuing authority (e.g., references to verifying identification, items and transactions, Col. 13, line 53-Col. 14, line 19);

issuing with said electronic means an approval code by a card issuing authority to a merchant (e.g., receiving approval, Col. 13, line 63-Col. 14, line 19);

completing a transaction by a merchant providing goods or services to a consumer (e.g., purchasing goods and services, for example, Abstract, Col. 1, line 1-Col. 2, line 39);

transferring funds from a card issuing authority to a merchant in the amount of payment from a consumer to a merchant (e.g., payments, Col. 19, lines 1-13);

As per claim 2, Risafi discloses that a merchant has a Web site and transactions may take place through a merchant's Web site (e.g., Col. 19, line 47-Col. 20, line 24);

As per claim 3, Risafi discloses first transmitting indicia of identification and the amount of transactional payment from a consumer to a merchant (See, for example, Fig. 6a, items **612** and **614**) from a merchant to a merchant's acquiring bank (see, for example, at least Fig. 6a, item 616, which sends the data to acquiring bank **604**) and then to a card issuing authority (Fig. 6a, item **410, issuer**), and issuing an approval code from the card issuing authority to the merchant's acquiring bank and then to the merchant (see, for example, Col. 13, lines 33-52).

As per claim 4, Risafi discloses first transferring the transactional payment from the consumer to the merchant's acquiring bank and then to the merchant (see, for example, at least Col. 13, lines 53-62).

As per claim 5, Risafi discloses deducting the amount of payment from a consumer to a merchant, from the predetermined denominational value of the card upon

issuing the approval code (e.g., decrementing an account balance, at least Col. 14, lines 1-30).

(10) Response to Argument

Appellant, on pages 3-4, refers to the Examiner's interpretation and argues:

This **definition** [of anonymous] is erroneous because it is based on a misinterpretation of the use of the term "anonymous" in the present application, and the definition is overly dependent on the means of transaction and not the information conveyed during the transaction [Brief, pages 3-4, emphasis added]

This [other] **definition** is too limiting because it assumes that a terminal or card-dispensing device cannot acquire personal information...

In response to these arguments, the Examiner notes that the scope of the claim does not exclude the Examiner's explanation and interpretation of **anonymous[-ly]**. The reference provides a PIN number and **no personal information**. The Examiner's **interpretation** falls within the scope of Appellant's arguments.

Appellant, on page 5, states:

Having identified the problems with the Examiner's definition of anonymity, and applying the correct **[sic]** definition [Examiner note: **interpretation**] to the general nature of the disclosure...

In response, the Examiner notes,

- (1) Although appellant's disclosures contain several mentions of order and reorder, appellant provides no definition for the term **anonymous[-ly]** found in the claims.
- (2) Since appellant has provided no explicit **definition** for the term **anonymous[-ly]**, the Examiner relies on the term's ordinary meaning and broadest reasonable interpretation. *E-Pass Technologies, Inc. v. 3Com Corporation*, 343 F.3d 1364, 1368, 67 USPQ2d 1947, 1949 (Fed. Cir. 2003).

(3) Appellant has not persuasively demonstrated that the Examiner has applied an unreasonable interpretation of the recited feature, that the interpretation is inconsistent with the specification, or that the applied interpretation is repugnant to one of ordinary skill in the art.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

James Zurita
Primary Examiner
Art Unit 2635

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